

**TERM SHEET OF ENVIRONMENTAL AGENCIES FOR THE MUSKOGEE SITE**

If Fansteel, Inc. ("Fansteel") files a Plan of Reorganization or enters into an Asset or Stock Purchase Agreement, such Plan of Reorganization or Asset or Stock Purchase Agreement shall include and Reorganized Fansteel or the Buyer shall be subject to the following terms and conditions:

1. As set forth in the Order Modifying License in the Matter of FMRI, Docket No. 040-7580, License No. SMB-911 EA-17-102, Reorganized Fansteel or the Buyer shall be responsible as a co-Licensee for fulfilling all obligations mandated by the NRC license and the Amended Decommissioning Plan, as modified or supplemented by amendment of the NRC license to decommission and remediate the Muskogee Site, and shall be responsible for compliance with the Environmental Quality Code, 27A Oklahoma Statutes § 2-1-101 *et seq.*, and applicable regulations.

2. Fansteel is the owner of 79.38 acres of the real property located a Ten Tantalum Place, Muskogee, Oklahoma, also known as the Muskogee Site: legally known as 42.09 acres: T15NR19E S10 LOTS 6&7 LESS 7.87 TO CO & HWY & LESS 3.575 TO USA; and 37.29 acres: T15NR19E S17 E ½ SE LESS 33.21 ACRES TURNPIKE LESS BEGINNING 45 S89 DEGREES 5422W NE/C SE S00 DEGREES 0130E 437.77 S89 DEGREES 0509W 448.85 N89 DEGREES 5422E 480.30 N00 DEGREES 0543W 660 S00 DEGREES 0543E 560 N89 DEGREES 5422E 55 TO POINT OF BEGINNING. FMRI is the owner of 10.36 acres of the real property located at the same address: legally known as T15NR19E S16 PART OF SW NW 7 BEGINNING 2 A POINT N89 5422E 20 7 N00 0543W 12.03 FROM SW/C NW OF SEC 16 N00 05443W 647.97 N89 5422E 744.40 S10 3505W 674.67 N88 4808W 649.59 TO POINT OF BEGINNING. As the current owner of contaminated real property, Fansteel has liability under applicable environmental law to decommission and remediate the Muskogee Site that continues beyond bankruptcy. Fansteel agrees that neither the Fansteel I Plan nor any subsequent Fansteel Plans of Reorganization in this bankruptcy or in any Asset or Stock Purchase Agreement, discharged or will discharge that liability. Reorganized Fansteel or the Buyer shall retain ownership, and shall not seek to transfer or change the ownership, of that property to FMRI or any other entity.

3. Fansteel agrees that the Atomic Energy Act, NRC regulations, NRC License SMB-911, Oklahoma Environmental Quality Code, and OPDES Permit No. OK0001643 impose environmental obligations to decommission and remediate the Muskogee Site that are not claims under 11 U.S.C. §105(5) and that are not subject to discharge under any Fansteel Plan of Reorganization or Asset or Stock Purchase Agreement. The NRC and ODEQ reserve the right to take enforcement action to require compliance with such statutes, regulations, the NRC License, and OPDES Permit.

4. On or before the Effective Date of any Fansteel Plan of Reorganization or Asset or Stock Purchase Agreement, Reorganized Fansteel or the Buyer shall submit a formal written request to the ODEQ to transfer OPDES Permit No. OK0001643 from FMRI to Fansteel.

5. On or before the tenth (10) business day of each month beginning one year after the Effective Date of any Plan of Reorganization or any Stock or Asset Purchase Agreement and continuing thereafter, Reorganized Fansteel or the Buyer shall transfer an amount per month equal to the prior year's annual Net Sales times the percentages outlined in the table below divided by 12 into a bank account held by FMRI or the Buyer, or \$30,000 per month, whichever is greater (the "Transferred Finds").

A. These funds shall be used in the following manner: (1) to pay for monthly health and safety costs of approximately \$30,000 at the Muskogee Site; (2) if monthly health and safety costs at the Muskogee Site are paid in full, to pay for 50% of monthly attorney fees with a cap of \$12,500 for the pursuit of recovery on any environmental claims; and (3) if first two items are paid in full, the remaining funds shall be deposited in the Decommissioning Trust to be used solely for the decommissioning and remediation of the Muskogee Site.

<u>Annual Net Sales</u>	<u>Percent</u>
8,000,000 or less	2.41%
8,500,000	3.45%
9,000,000	4.37%
9,500,000	5.19%
10,000,000	5.93%
10,500,000	6.60%
11,000,000	7.21%
11,500,000	7.77%
12,000,000	8.28%
12,500,000	8.74%
and greater	

For purposes of this Term Sheet, the term "Net Sales" means gross sales minus defective material returned, sales allowances, and cash discounts. Contemporaneously therewith, Reorganized Fansteel or the Buyer shall provide the Department of Justice ("DOJ"), NRC, and ODEQ with a certificate from an officer of Reorganized Fansteel or the Buyer confirming the above payments. The above payments shall continue until the NRC terminates the license and releases the Muskogee Site. If Reorganized Fansteel dissolves FMRI post-bankruptcy, Reorganized Fansteel shall transfer the required monthly payments to a Reorganized Fansteel account that is segregated from all other Reorganized Fansteel accounts. Such funds shall be used solely for the purpose of decommissioning and remediating the Muskogee Site.

B. If there are substantial and material negative circumstances in the financial condition of Reorganized Fansteel or the Buyer that make it impossible for Reorganized Fansteel or the Buyer to make a required financial assurance payment provided for in Paragraph 5(A) without either (i) violating commercially reasonable charge ratio covenants in a credit agreement or, (ii) a failure to meet its financial payment obligations in the ordinary course of business, Reorganized Fansteel or the Buyer may petition the United States, on behalf of the NRC, and ODEQ for approval of a change in the schedule of a required payment. Such a petition shall explain in detail and the United States may consider the following factors any one of which the United States may deem dispositive in determining whether to grant the petition: the substantial and material negative circumstances in the financial condition of Reorganized Fansteel or Buyer and the causes of such negative circumstances; whether such circumstances were caused in any way by actions of Reorganized Fansteel, the Buyer or the lender, or was on account of factors beyond their control; how and whether health and safety will be protected at the Site if the request is granted; evidence that the charge ratio is commercially reasonable and that it would not be commercially reasonable to waive a violation of the charge ratio; a proposed revised schedule for the payment and evidence that Reorganized Fansteel or the Buyer should be able to make the required financial assurance payment under the proposed revised schedule based on the then current financial circumstances; and, provide any relevant financial documentation. The United States, on behalf of the NRC, after consultation with ODEQ, shall review and, if appropriate, approve such petition, which approval shall not unreasonably be withheld.

6. Funds deposited in the Decommissioning Trust shall be used to perform work described in the Amended Decommissioning Plan and any work required by any modification or supplement by amendment of the NRC license. The funds in the Decommissioning Trust shall only be used for the work described above unless approved by the NRC.

7. Reorganized Fansteel and FMRI or the Buyer shall request and receive NRC's written approval prior to withdrawal of funds from the Decommissioning Trust. If the funds available in the Decommissioning Trust are depleted to \$500,000, neither Reorganized Fansteel, FMRI, nor any Buyer shall request to withdraw additional funds from the Decommissioning Trust until such time as the Decommissioning Trust has been replenished to at least \$1 million, unless Reorganized Fansteel, FMRI, or any Buyer obtains written approval from the NRC.

8. Neither Reorganized Fansteel, FMRI, nor a Buyer shall expend any of the Transferred Funds or any of the funds in the Decommissioning Trust on the further assessment of radiological contamination at the Muskogee Site until after all of the WIP has been properly excavated, removed, shipped and disposed of from the Muskogee Site.

9. Neither Reorganized Fansteel, FMRI, nor any Buyer shall propose to amend the Decommissioning Plan, or expend any Transferred Funds or any funds in the Decommissioning Trust to investigate the amendment of the Decommissioning Plan, to allow for license

termination under restricted conditions unless Reorganized Fansteel can demonstrate, subject to NRC review and approval, that Reorganized Fansteel or the Buyer has complied with 10 C.F.R. § 20.1403, which requires, inter alia, that an independent third party, including a governmental custodian, has agreed to assume and carry out responsibilities for any necessary control and maintenance of the Muskogee Site in accordance with 10 C.F.R. § 20.1403(c).

10. Reorganized Fansteel and FMRI or a Buyer shall undertake and complete a Remedial Investigation and Feasibility Study ("RI/FS") of non-radiological contamination at the Muskogee site (the current facility plus all land within the historical footprint of the Fansteel facility) in accordance with Appendix B to this Term Sheet.

11. Any gross rental income received by Fansteel, FMRI, or a Buyer for use of real or personal property located at the Muskogee Site, currently estimated to be approximately \$4,500 per month ("Rental Income"), shall be used to excavate, transport and dispose WIP material until such work is completed, after which Rental Income shall be used for the performance of the RI/FS.

12. In the event that Reorganized Fansteel or the Buyer defaults in any of its financial assurances obligations under Paragraph 5, Reorganized Fansteel or the Buyer shall be obligated to perform such work to the extent that there are sufficient funds available in the Decommissioning Trust Fund, plus work funded by the amounts that should have been paid to the Decommissioning Trust Fund.

13. The NRC and ODEQ shall have the right to any Stock or Asset Sale Proceeds resulting from the reorganization, sale, merger or acquisition of Fansteel or Reorganized Fansteel. For purposes of this Term Sheet, "Stock or Asset Sale Proceeds" means, with respect to any asset sale by Fansteel or Reorganized Fansteel and its subsidiaries, outside of the ordinary course of business, 50% of the first \$2,000,000 of sale proceeds, 35% of the next \$3,000,000 of sale proceeds, 25% of all sale proceeds in excess of \$5,000,000, in each case net of (i) all transaction costs and (ii) all amounts, if any, due to Reorganized Fansteel's secured creditors as a result of such sale. Such proceeds shall be transferred to and deposited into the Decommissioning Trust.

14. Reorganized Fansteel or a Buyer shall diligently pursue insurance carriers for recovery on any environmental claims as described in the Fansteel I Plan. Any attorney fees and costs for such work shall be paid as follows: 50% of the monthly fees invoiced with a cap of \$12,500 shall be paid monthly with the remaining attorney fees being paid upon recovery, if any. Costs shall be paid 100% as incurred. Attorney fees of an additional 10% of the amount invoiced shall also be paid upon recovery. The parties retain the right to review and approve this funding agreement. None of the funds from the Decommissioning Trust shall be used to pay attorney fees or costs. All funds recovered from any third party contribution actions under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, or other applicable federal, state or local environmental statutes and from insurance carriers (other than attorney fees and costs) shall be transferred to and deposited in the

Decommissioning Trust to be used solely for the decommissioning and remediation of the Muskogee Site.

15. Financial Reporting. Within 30 days after the completion or submission of the financial information below, Reorganized Fansteel or the Buyer shall provide the following financial information to DOJ, NRC and ODEQ: (a) annual audited and unaudited financial statements for Fansteel and FMRI or the Buyer; (b) monthly financial statements for Reorganized Fansteel and FMRI or the Buyer; and (c) Federal tax returns for Reorganized Fansteel and FMRI or the Buyer for 2017 and thereafter. Upon reasonable notice to Reorganized Fansteel or the Buyer of not less than 14 days, the DOJ, NRC, and ODEQ shall have the right to perform an on-site inspection of the financial records of Reorganized Fansteel or the Buyer.

16. Decommissioning and Remedial Reporting: From the effective date of the Plan of Reorganization until December 31, 2018, the following reporting requirements shall apply: (a) within 14 days following the last day of the month, FMRI or the Buyer shall provide a monthly report to DOJ, NRC, and ODEQ indicating the amount of WIP material and, if any,  $\text{CaF}_2$  material or contaminated soil excavated, the amount of WIP and, if any,  $\text{CaF}_2$  material or contaminated soil shipped, the amount of WIP and, if any,  $\text{CaF}_2$  material or contaminated soil bagged, the remediation activities performed during the prior calendar month, and remediation activities scheduled for the following 12 months; (b) within 14 days following the last day of the month, invoices received during the month associated with the shipment and disposal of WIP and  $\text{CaF}_2$  material shall be provided to DOJ, NRC, and ODEQ; (c) within 14 days following the last day of the month, a statement of the sources and amounts of Rental Income from the past month shall be provided to DOJ, NRC, and ODEQ; and (d) within 14 days following the last day of the month, FMRI or the Buyer shall provide DOJ, NRC, and ODEQ with a monthly report that provides an accounting of the Transferred Funds expended during the prior calendar month.

17. Work Plans: On or before June 30, 2018, and by June 30 of each two year period thereafter, Reorganized Fansteel shall submit a work plan for continuing the decommissioning and remediation of the Muskogee Site, subject to the review and approval of the NRC and ODEQ.

18. The United States is willing to provide an appropriate covenant not sue to and reservation of rights to Reorganized Fansteel/Inter cast its shareholders, officers, and directors based solely on their status as Fansteel/Inter cast shareholders, officers, and directors consistent with Appendix A hereto.

19. The NRC and ODEQ are willing to agree to not seek to recover past due licensing fees. The NRC is willing to not require licensing future licensing fees provided such an agreement remains consistent with 10 C.F.R. 170.11(b). Future licensing fees required to be paid to ODEQ shall be deposited into the Decommissioning Trust Fund to be used solely for the purpose of decommissioning and remediating the Muskogee Site. See Appendix A.

20. The terms and conditions of this Term Sheet shall be incorporated into the any Fansteel Plan of Reorganization or into any Asset or Stock Purchase Agreement.

21. This Term Sheet shall not impose any binding or enforceable obligations on the Governments, and the terms of this Term Sheet shall not become binding and enforceable upon the Governments unless and until the appropriate officials of the Governments have executed and delivered a Settlement Agreement, after any public notice and opportunity for public comment in accordance with applicable law, and after the Bankruptcy Court has approved the Settlement Agreement.

22. This Term Sheet may not be used or relied on by any party for any purpose other than to discuss a Term Sheet or Environmental Settlement Agreement; and

23. This Term Sheet is not a permit, covenant not to sue, or release, and may not be used as a defense to any claim, action or proceeding.

**FANSTEEL COVENANTS NOT TO SUE AND RESERVATIONS**  
**(Appendix A)**

**NRC AND ODEQ's COVENANT NOT TO SUE**

1. Subject to the Reservation of Rights below, the United States, on behalf of the NRC, covenants not to sue or take any other civil or administrative action against Reorganized Fansteel pursuant to the Atomic Energy Act, 42 U.S.C. §§ 2092 *et seq.* with respect to Existing Contamination<sup>1</sup> at the Muskogee Facility.

2. Subject to the Reservation of Rights in Section II, the Oklahoma Department of Environmental Quality ("ODEQ") covenants not to sue or take any other civil or administrative action against Reorganized Fansteel pursuant to the Environmental Quality Code, 27A Oklahoma Statutes § 2-1-101 *et seq.* with respect to Existing Contamination at the Muskogee Facility.

**RESERVATION OF RIGHTS**

3. The covenant not to sue set forth above does not pertain to any matters other than those expressly specified therein (United States' and ODEQ's Covenant Not to Sue). The United States and ODEQ reserve, and this Settlement Agreement is without prejudice to, all rights against Reorganized Fansteel with respect to all matters not expressly included within the Covenant Not to Sue in Section 1. Notwithstanding any other provision of the Settlement Agreement, the United States and ODEQ reserve all rights against Reorganized Fansteel with respect to:

a. enforcement of the United States and ODEQ's rights pursuant to this Settlement Agreement, including but not limited to the enforcement of NRC License SMB-911, ODEQ Permit No. OK0001643, Section \_\_\_\_ (Work to be Performed).

b. any liability resulting from exacerbation of Existing Contamination by Reorganized Fansteel its successors, assignees, lessees or sublessees,;

c. any liability resulting from the release or threat of release of hazardous substances, pollutants, or contaminants, at the Muskogee Facility after the Effective Date, not within the definition of Existing Contamination;

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<sup>1</sup> "Existing Contamination" shall mean any hazardous substances, pollutants, or contaminants, present or existing on or under the Muskogee Facility as of the Effective Date.

d. any liability resulting from violations of the NRC's deliberate misconduct regulations (40 C.F.R. § 40.10); and

e. criminal liability.

4. Nothing in this Settlement Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States and ODEQ may have against any person, firm, corporation or other entity not a party to this Settlement Agreement.

5. Nothing in this Settlement Agreement is intended to limit the right of the United States and ODEQ to undertake future response actions at the Muskogee Facility or to seek to compel parties other than Reorganized Fansteel to perform or pay for response actions at the Muskogee Facility. Nothing in this Settlement Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by the United States and ODEQ in exercising its authority under federal or state law.

7. In the event Reorganized Fansteel becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Muskogee Facility that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment after the Effective Date, Reorganized Fansteel shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release.

#### REORGANIZED FANSTEEL'S COVENANT NOT TO SUE

8. In consideration of the United States and ODEQ's Covenant Not To Sue above this Settlement Agreement, Reorganized Fansteel hereby covenants not to sue and not to assert any claims or causes of action against the United States or the State of Oklahoma, their authorized officers, employees, or representatives with respect to the Muskogee Facility or this Settlement Agreement, under the Atomic Energy Act, 42 U.S.C. §§ 2092 *et seq.*, or the Environmental Quality Code, 27A Oklahoma Statutes § 2-1-101 *et seq.*

#### PARTIES BOUND/TRANSFER OF COVENANT

9. This Settlement Agreement shall apply to and be binding upon the United States, ODEQ and shall apply to and be binding upon Reorganized Fansteel, its officers, directors, and employees. The United States and ODEQ's Covenant Not to Sue in Paragraphs 1 and 2 shall apply to Reorganized Fansteel's current shareholders, officers and directors to the extent that the alleged liability of the shareholder, officer or director is based solely on his or her status and in his or her capacity as an officer, director, or employee of Reorganized Fansteel, and not to the extent that the alleged liability arose independently of the alleged liability of Reorganized Fansteel. Each signatory of a Party to this Settlement Agreement represents that he or she is fully



authorized to enter into the terms and conditions of this Settlement Agreement and to legally bind such Party.

10. Notwithstanding any other provisions of this Settlement Agreement, all of the rights, benefits and obligations conferred upon Reorganized Fansteel under this Settlement Agreement may be assigned or transferred to any person with the prior written consent of the United States and ODEQ in their sole discretion.

11. Any costs incurred by the NRC or ODEQ to review any subsequent requests for consent to assign or transfer the benefits conferred by this Settlement Agreement shall be paid by the assignee of the transferee.

12. Prior to or simultaneous with any assignment or transfer of the Muskogee Facility, the assignee or transferee must consent in writing to be bound by the terms of this Settlement Agreement including but not limited to the certification requirement in Section \_\_\_ in order for the Covenant Not to Sue in Section I to be available to that party. The Covenant Not to Sue in Section I shall not be effective with respect to any assignees or transferees who fail to provide such written consent to the United States and ODEQ.

**REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**  
**(Appendix B)**

FMRI shall undertake and complete a Remedial Investigation and Feasibility Study (“RI/FS”) of the Muskogee site (the current facility plus all land within the historical footprint of the Fansteel facility) in accordance with the priorities enumerated below. Priorities numbered 5 through 9 shall be commenced in order of priority as and only if Rental Income is available to support the work.

1. On August 27, 2015, FMRI retained Enercon Services, Inc. (“Consultant”) to oversee the performance of, and prepare documentation required for, the RI/FS.
2. On September 2, 2015, FMRI submitted to ODEQ a statement of qualifications (of the Consultant firm and its principals), including their past areas of business, relevant projects and experience, and overall familiarity with the types of activities to be performed as part of the RI/FS.
3. All work conducted under ODEQ’s authority shall conform to requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 42 USC § 9601 *et seq.*) and the National Oil and Hazardous Substances Pollution Contingency Plan (the NCP, 40 CFR SubChapter J Part 300), and follow the format prescribed in the most current Environmental Protection Agency (“EPA”) guidance documents.
4. On April 11, 2016, FMRI submitted to ODEQ a report entitled “Discussion of Data Gap Investigation of the Former Fansteel Property, 10 Tantalum Place, Muskogee, OK” (Data Gap Analysis) prepared by the Consultant, compiling information and data of known site conditions and contamination, and identifying data gaps required to complete the RI/FS.
  - a. The report considered earlier reports to the NRC including the Remediation Assessment (Earth Science Consultants, 1993), and subsequent assessments prepared for Fansteel or FMRI, or identified in assessment work by third parties on historically FMRI-owned property, specifically including but not limited to the trichloroethylene-contaminated groundwater recently reported in the Northwest Property area.
  - b. The Data Gap Analysis included site maps and diagrams showing the locations and the horizontal and lateral boundaries of contaminated media (soil, subsurface soil, groundwater, surface water, sediment, and air, as well as the potential for vapor intrusion from any volatile chemical in the subsurface soil or groundwater).
  - c. The Data Gap Analysis summarized information from the available reports, and tabulated a list of Data Gaps where insufficient information was found to identify wastes and contamination related to all operations and former operations, including but not limited to storage, use and treatment of chemicals and wastes; all process areas including but not limited

to storage, use and treatment of chemicals and wastes; all process areas including an explanation of all industrial processes performed in those areas; maintenance and waste management areas for products, ore and wastes, and associated releases; and a description of sumps, floor drains, and subsurface reservoirs.

d. By a letter dated June 22, 2016, ODEQ accepted the Data Gap Analysis as a sufficient basis to proceed with developing a Work Plan for Site Characterization, provided certain additional data gaps identified by ODEQ were also addressed.

5. By November 1, 2017, FMRI shall submit to ODEQ for approval a work plan for the RI/FS ("Work Plan"). The RI/FS Work Plan shall include as attachments a Quality Assurance Project Plan ("QAPP"), Sampling and Analysis Plan ("SAP"), Risk Assessment Plan ("RAP"), Community Involvement Plan ("CIP") and Health and Safety Plan ("HSP"), and a schedule for completion of the field work and the Draft Remedial Investigation Report.

6. FMRI shall not begin field work until ODEQ has approved the Work Plan, the SAP, the QAPP, and the schedule for completion.

7. FMRI shall commence field work within 7 days following ODEQ approval of the Work Plan or the SAP and QAPP, and shall complete all field work in accordance with the approved schedule for completion. All laboratory data shall be submitted to ODEQ within 14 calendar days of receipt.

8. After completing the field work, and in accordance with the approved schedule for completion, FMRI shall submit to ODEQ a Draft Remedial Investigation Report prepared by the Consultant.

9. Within 30 days of ODEQ approval of the Remedial Investigation Report, FMRI will submit to ODEQ for approval a draft Feasibility Study.